Constitution

Of The

Northway Tribe

Northway, Alaska

Adopted by the Tribe on September 7th, 2004

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PREAMBLE

We the Alaska Native people of Northway, composed of several traditional clans, assert our freedom as a sovereign Tribe in a historic relationship with the United States of America, in creating this Tribal Constitution. We adopt this Constitution to exercise the Tribe's inherent sovereign rights and powers in promoting the well-being and unity of this and succeeding generations, to affirm our faith in our fundamental Native rights and traditions, and to promote our Tribe's social, cultural, economic and political progress. We adopt this Constitution as a federally recognized Indian tribe and under the inherent sovereign authority of our Tribe. This Constitution shall supersede the Articles of Incorporation of the Northway Village Council and By Laws of the Northway Village Council, adopted in 1976.

ARTICLE 1 - NAME

The name of this Indian tribe shall be the Northway Tribe, know as 'Northway Village' on the list of federally recognized tribes published by the Department of the Interior.

ARTICLE 2 – JURISDICTION

The jurisdiction of the Northway Tribe shall extend over governmental processes internal to the Tribe and over matters arising:

1. In the Northway Tribe's Indian country; and/or
2. Over all tribal members within or outside Indian country; and/or
3. Over all persons and entities who entered into consensual relations with the Tribe or tribal members and whose activities affect the political integrity, economic security, or health and welfare of the Tribe or tribal members; and/or
4. Over any matters so delegated by Congress.

ARTICLE 3 - MEMBERSHIP

Section 1. Base Membership.

The base membership roll of the Northway tribe shall be the original members from the late 1800s whose names are: Bill and Laura John, Chief Sam and his wife, Taiy-tah and Anna Northway, Annie Johnny, Old Charley and his wife, and Bessie Mason.

Section 2. Descendants of Base Roll Members. All lineal descendants of base roll members shall be automatically eligible for membership in the Northway Tribe, provided that lineal descendants over 18 are not enrolled into any other tribe. Children under 18 and lineal descendants of members on the base membership roll shall be tribal members regardless of whether or not they are formally enrolled into the Northway Tribe or enrolled into another tribe. Lineal descendants over 18 who are not already formally enrolled, shall be considered automatically eligible for membership in the Northway Tribe and may submit applications for formal enrollment, provided that they are not enrolled into any other tribe.

Section 3. Dual Enrollment.

Dual enrollment is not permitted for adults, those 18 years of age and older. Dual enrollment is permitted for children under the age of 18. Children who are lineal descendants of base roll members shall be tribal members even if they are not formally enrolled, and may not be disenrolled from the Tribe until the age of 18.

Section 4. Adoption of New Members. The Tribal Council shall have the option to adopt Alaska Natives, American Indians, or Canadian First Nations people who set up residence in Northway but are not descendants of members listed on the base roll,

according to the provisions and stipulations of a Northway tribal membership and enrollment ordinance.

Section 5. Membership and Enrollment Ordinance. The Tribal Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, dual membership, maintenance of the membership roll, loss of membership, disenrollment, relinquishment of membership, and adoption of new members.

ARTICLE 4 - GOVERNING BODY

Section 1. Name and Powers. The governing body of the Northway Tribe shall be the Northway Tribal Council, also referred to as the 'Council' or 'Tribal Council' in this Constitution. The Council shall represent the Tribe and shall exercise the powers of the Tribe cited in this Constitution unless otherwise provided by this Constitution or by tribal ordinance.

Section 2. Number of Council Members and Voting. The Northway Tribal Council shall consist seven (7) adult, resident tribal members, elected by the qualified tribal voters. All council members shall be entitled to vote except in cases of conflict of interest. An Elder advisor, age 65 or older, may be appointed after each annual council election in April to advise the Northway Tribal Council. A youth representative, age 14 – 18, may also be appointed annually. However, neither the Elder advisor nor the youth representative may have a vote on the Tribal Council.

Section 3. Qualifications for Serving on the Tribal Council. Resident tribal members who are 18 years of age or older, who have resided in Northway for at least 1 year immediately prior to a Council election, and who have had no felony convictions

for at least 3 years immediately prior to an election are eligible to hold a position on the Tribal Council, provided that the three officers of the Council shall be lineal descendants of a base roll member.

Section 4. Officers of the Council. The Officers of the Northway Tribal Council shall include a President, Vice President, and Secretary/Treasurer. The three officers shall be lineal descendants of base roll members. Officers shall be appointed by the Council at the first meeting after the annual elections in April. The Council, by an affirmative vote of 4, may appoint an officer to fill a vacancy that occurs between elections.

Section 5. Vacancies on the Tribal Council. Any vacancy on the Tribal Council shall be filled by appointment by the remaining members of the Council, provided that there are at least 4 affirmative votes to support the appointment. If for some reason there are less than 4 tribal council members remaining on the council, there shall be a special tribal election to fill those vacancies. A Council member appointed or elected to fill a vacancy shall serve until the term of that seat expires.

Section 6. Quorum. Four (4) Tribal Council members shall constitute a quorum for the transaction of business at any meeting of the Tribal Council unless a larger number is specifically required by this Constitution or by tribal ordinance. The council members may meet either in person or be telephonically connected to meetings if they are out of the Village.

Section 7. Terms of Office. The seven (7) elected members of the Tribal Council shall hold office for a term of two (2) years, provided that shorter terms may be used temporarily to begin or restore the staggering of terms. Elections for tribal council members shall be held each year in April, with three being elected one year, and four being elected the next year. A record shall be kept in the Tribal Office of when each person was elected and when each person's term expires.

Section 8. Conflict of Interest. No Council member shall vote on any matter, including but not limited to employment contracts, project funding, project allocations and appointments to tribal committees, in which he or she has a direct, significant personal interest. A personal interest also includes matters involving his or her spouse or significant other, parents and in-laws, grandparents, children, grandchildren, or siblings and in-laws. Council members present when such an issue is decided shall reveal such conflict prior to any vote, and shall abstain from voting.

ARTICLE 5 - DUTIES OF OFFICERS OF THE COUNCIL

Section 1. Assuming Duties. Newly elected Council members shall assume their duties immediately upon being elected. Officers appointed by the Council shall assume their roles immediately upon being appointed. All new members of the Tribal Council shall be sworn in under an oath that shall be administered by the highest-ranking Council member.

Section 2. Chain of Command and Decision Making. During meetings, the Council shall make decisions by consensus when possible and by majority vote when consensus is not possible. The chain of command for chairing Council meetings shall be the President, the Vice President, and then the Secretary/Treasurer when the President and Vice President are not available to chair a Council meeting. When the Council is not meeting, the President shall generally represent the Tribe and supervise the day to day activities of the Council. In the absence of the President, the Vice President shall undertake this responsibility. In the absence of the President and Vice President, the Secretary/Treasurer shall. The President, Vice President and Secretary/Treasurers shall not have the authority to sign resolutions, contracts, funding re-allocations, or make major commitments of tribal resources without an affirmative vote of at least 4 other members of the Council, provided that a higher number of

affirmative votes may be required by this Constitution or by tribal ordinances in specific circumstances. Checks signed in the regular course of business require two signatures. Authorized check signers are the President, Vice President, and Secretary/Treasurer. Additionally, the Council by resolution, may authorize other specific Tribal Council members to be check signers.

Section 3. President. The President shall be the first in command to preside over meetings of the Council and of the Tribe. The President shall provide general supervision for the affairs of the Council with the assistance of the Vice President and Secretary/Treasurer. The President may sign, with either the Vice President, or Secretary/Treasurer all contracts, leases and other significant documents approved by an affirmative vote of at least 4 Council members other than his or herself, provided that a higher number of affirmative votes may be required by this constitution or by tribal ordinances in specific circumstances.

Section 4. Vice President. The Vice President shall preside over meetings of the Council and of the Tribe in the absence of the President. The Vice President shall provide general supervision over the affairs of the Tribe and Tribal Council in the absence of the President. When the President is present in the Village, the Vice President shall assist the President in the general operation of Council affairs.

Section 5. Secretary/Treasurer. The Secretary/Treasurer shall carry out the financial directives of the Council, receive all monies and keep accurate account of the receipts and disbursements, except when these duties are otherwise delegated by the Council. The Secretary/Treasurer shall give financial reports as requested by the Council. The Secretary/Treasurer shall take or delegate the taking of minutes of all meetings. The Secretary/Treasurer shall issue or delegate the duty of issuing notices of all meetings and elections. Upon vacating his or her office, the Secretary/Treasurer

shall immediately turn over all the records and papers in his or her possession to his or her successor or to the Council.

ARTICLE 6 - MEETINGS

Section 1. Notice for all Meetings of the Tribal Council and General Tribal Membership Meetings. Notice of meetings of the Tribal Council and general tribal membership meetings, except for emergency meetings of the Council, shall be posted in at least 3 public places in Northway and may additionally be otherwise advertised. The minimum length of time required for notification of various types of meetings shall be specified by this Constitution or by tribal ordinance.

Section 2. Regular Meetings of the Tribal Council. Regular meetings of the Council shall be held the second Tuesday of every month. Council members may participate telephonically when they are away from the Village. Notice shall be posted at least one week prior to regular meetings and may also be otherwise advertised. Minutes shall be taken at all regular meetings of the Council. All regular meetings shall be open to the general tribal membership except when the Council is in executive session.

Section 3. Special Tribal Council Meetings. The President, or Vice President in the absence of the President, may call a special tribal council meeting upon giving at least one week notice to resident tribal members. The council members and resident tribal members shall be notified about what the special meeting is about. All special meetings shall be open to the general tribal membership.

Section 4. Emergency Tribal Council Meetings. The Council may meet for an emergency meeting without notice only when emergency circumstances warrant such a meeting. Only emergency business may be taken up at emergency meetings.

Section 5. Executive Session of the Tribal Council. The Northway Tribal Council may move to meet in a closed executive session during regular, special or emergency meetings of the Council when the subject matter concerns child welfare, personnel, litigation, and other matters made confidential by tribal ordinance. The Council shall not go into executive session until all other business for the meeting is complete.

Section 6. Tribal Membership Meetings.

A. **Council Calling Tribal Membership Meetings:** General tribal membership meetings may be called by an affirmative vote of at least 4 tribal council members, provided that the President or Vice President are among the four.

B. **Tribal Members Calling Tribal Membership Meetings:** Tribal membership meetings may also be called by the tribal membership, through a petition signed by at least 35 of the qualified tribal voters. Notice must be posted in three public places in Northway for at least two weeks from the date that the sufficient number of signatures were obtained on the petition.

C. **Quorum for Tribal Membership Meetings:** A quorum for a tribal membership meeting where decisions or policy are being made shall be 35 of the qualified tribal voters.

D. **Notice for Tribal Membership Meetings:** Notice for tribal membership meetings shall be posted in three public places in Northway at least 2 weeks

prior to such meetings, unless a different time period is specifically required for a specific issue by this Constitution or by tribal ordinance.

ARTICLE 7 - REMOVAL, RECALL, FORFEITURE, AND VACANCIES

Section 1. Removal. Any elected members of the Council found guilty by the Council of neglect of duty, gross misconduct in office, or an offense involving dishonesty may be removed from office by the Council. A minimum of at least 5 Council members must vote in favor of the removal. Council members who are the subject of a removal shall first be given ten (10) days notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Council at an open meeting of the Council. If the person subject to removal fails to appear before the Council, the Council may proceed in making a decision. No person shall preside over a meeting at which his or her removal is being considered. All questions concerning removal under this Section shall be resolved by the Council and the decision of the Council shall be final.

Section 2. Recall. Any member of the Northway Council may be recalled by the tribal voters through a petition and election process. A valid petition requesting such recall signed by at least 35 of the qualified tribal voters of Northway, shall be presented to the Council. The Council shall call a special election to consider the recall of the named Council member within thirty (30) days upon receiving the petition, in accordance with Article 8, Section 4. If the majority of the voters vote in favor of the recall, the official shall be removed. No official may be subjected to recall proceedings for the same incident more than once in the course of his or her term. If the Council fails to call a special election to consider the recall, the tribal membership may hold a tribal membership meeting to conduct such business, provided that a quorum is established. Circulating a new petition to call such a meeting shall not be required, but notice shall be posted in public places in Northway at least (2) weeks in advance.

Section 3. Forfeiture. Any member of the Tribal Council who submits a written resignation that is accepted by the Council, or is convicted of a felony of moral turpitude while in office, shall automatically forfeit his or her office. In cases where a Council member is absent, either in person or telephonically, from three successive regular meetings of the Tribal Council without notifying the Tribal Council Office prior to the meetings, the Council may declare his or her seat forfeited after a warning is issued upon the second unexcused absence.

ARTICLE 8 - ELECTIONS

Section 1. Voter Qualifications.

Any tribal member eighteen (18) years of age or older, and is physically present in Northway for an election, shall be qualified to vote.

Section 2. General Guidelines for Elections. All elections shall be conducted by secret balloting. The outcome of an election shall be determined by a simple majority of the qualified voters casting their votes during the election unless otherwise specified by this Constitution or by ordinance.

Section 3. Tribal Council Elections. Elections for Tribal Council positions shall be held in Northway every year in April. If the Council fails to hold elections for tribal council positions, the tribal membership may meet to conduct an election under the terms of Article 6, Section 6 of this Constitution.

Section 4. Special Elections. The Council may, by resolution, call a special election for the purposes of deciding a referendum, initiative, or recall, upon giving at least two

(2) weeks notice to the resident members. Notice shall be posted in three public places in Northway and may also be otherwise advertised. Notices shall contain information concerning what the special election is about. Special elections may take place either through a meeting format or through polling hours. Absentee ballots may be made available to resident tribal voters one week prior to special elections.

Section 5. Election Committee. Prior to each election, the Council shall appoint an election committee of at least two adults to supervise, administer, and conduct tribal elections. The election committee shall certify the election of tribal officials. In elections for tribal council positions, no member of the election committee shall at the same time be a member of the Council or a candidate for a position on the Council.

Section 6. Election Ordinance. An election ordinance, consistent with this Constitution, shall be adopted by the Council which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9 - POWERS OF THE NORTHWAY TRIBAL COUNCIL

Section 1. General Powers. Except as specifically limited by this Constitution or by tribal ordinance, the powers of the Tribe shall be exercised by the Council. The powers shall include all the inherent powers of a federally recognized tribal government which do not violate federal law, including but not limited to those specified in this Article. The Council shall have the power to establish a tribal court system.

Section 2. Internal Procedures. Consistent with this Constitution, the Council may enact ordinances to govern its internal procedures and organization and to further define the duties of tribal officers.

Section 3. Tribal Council Powers. In addition to all powers vested in the Tribe or Council by existing law and this Constitution, the Tribe acting through the Council, shall have the following powers:

a. To consult, negotiate, contract, oversee, or conclude agreements with and make recommendations to federal, state, local, and tribal governments on activities that may affect the Northway Tribe.

b. To promote and protect the peace, health, education, and general welfare of the members of the Tribe, and to administer services that contribute to the social and economic development of the Tribe and its members.

c. To levy and collect taxes, fees, and assessments for Tribal purposes.

d. To encourage, guard and foster Tribal cultural practices of the Northway people, including the arts, crafts, religion, language and customs of the Native people of Northway.

e. To prevent the sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets without the consent of the Northway Tribe.

f. Except as limited by Article 10 of this Constitution, to manage, sell, lease, exchange, acquire, or otherwise deal with tribal or other property.

g. To acquire property and accept gifts.

h. To administer tribal assets including funds and generally manage all economic affairs and enterprises of the Tribe.

i. To engage in tribal economic development enterprises for the benefit of tribal members.

j. To provide for the maintenance of law and order, health and safety, and the administration of justice, including the establishment of appropriate tribal courts or other judicial bodies.

k. To charter enterprises, corporations, and associations for the benefit of tribal members.

l. To enact ordinances consistent with this Constitution for the conduct and administration of all tribal functions.

m. To regulate inheritance among members whether by intestacy or otherwise.

n. To administer any funds within the control of the Tribe.

o. To regulate child custody, adoption, and protection and other domestic relations among members.

p. To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Tribe or upon which its members rely for subsistence.

q. To regulate and control the use of natural resources within the area under the jurisdiction of the Tribe, or which otherwise affect the health, safety or economic well being of the Tribe or its members.

r. To employ legal counsel and fixing of fees.

s. To join and/or charter housing authorities.

t. To protect members' rights in personal property.

u. To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the Tribe.

v. To enact ordinances, procedures and regulations necessary to give effect to any provision of this Constitution and to exercise any power not prohibited by federal law.

w. To approve or disapprove the hiring of any employee in any field of work which directly or indirectly affects the Tribe or a tribal member.

x. To secure bank loans up to $150,000 without a vote of the tribal membership.

Section 4. Omissions. Any rights and powers vested in the Northway Tribe but not expressly referred to in this Constitution shall not be lost by reason of their omission, but may be exercised by the Council unless expressly prohibited by this Constitution or by tribal ordinance.

ARTICLE 10. POWERS RESERVED TO MEMBERSHIP

Section 1. Tribal Lands. The following powers are specifically reserved to the qualified voters of the Northway Tribe acting through a general tribal membership meeting or a properly called election:

(a) No lands or interests in lands owned by the Tribe may be sold, leased for longer than 10 years, encumbered or disposed of without an affirmative vote of at least 35 of the qualified tribal voters.

(b) Nothing in this Article shall prohibit the Tribal Council from establishing and administering a tribal land assignment program as set forth by tribal ordinance.

Section 2. Tribal Sovereign Immunity. Northway tribal voters reserve the right to vote on waivers of sovereign immunity from claims by a non-governmental entity over $150,000 in value or any claim by any entity seeking execution against tribal lands.

Section 3. Other Issues. The Northway qualified voters reserve the right to vote on the amendment or repeal of this Constitution under the terms of Article 14. Specific tribal ordinances may require a referendum vote of the tribal members prior to amendment or repeal.

ARTICLE 11 - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The qualified voters of the Northway Tribe shall have the right to propose and repeal ordinances and resolutions not inconsistent with this Constitution, through a valid petition signed by at least 35 of the qualified tribal voters. The petitions shall be submitted to the Tribal Council. The Council shall then call an election to be conducted by the election committee no later than thirty (30) days after receipt of the petition. If the Council fails to act on the petition, the ordinance or resolution may be brought before a tribal membership meeting called under the terms of Article 6, Section 6. An affirmative vote by a majority of qualified voters at a tribal membership meeting where a quorum has been established shall be required to adopt or repeal such ordinances or resolutions.

Section 2. Referendum. The Council, by an affirmative vote of at least 4 of its members, which must include either the President or Vice President, may refer issues to the tribal membership in a tribal election. Such an election shall be conducted by the election committee within thirty (30) days of such Council decision, and notice posted in at least three public places in the village for a minimum of 2 weeks prior to such an election. An affirmative vote by a majority of the eligible voters shall be required to determine the Tribe's position on the issue, provided that at least 35 of the qualified tribal voters have voted.

Section 3. Initiative and Referendum Decisions. The decision of the voters in both initiative and referendum elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE 12 - RIGHTS OF MEMBERS

Section 1. Access to Tribal Records. Tribal members shall have the right to review all tribal records, including financial records, during tribal office hours in accordance with procedures established by the Council, except in child welfare cases, tribal enrollment records, litigation, personnel and other matters made confidential by tribal ordinance.

Section 2. Open Tribal Council Meetings. Tribal members have the right to be present at all Council meetings except during executive sessions of the Council.

Section 3. Indian Civil Rights. The Tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968 as amended, enforceable by the Northway Tribal Court. In summary, the tribal government shall:

(1) Not prohibit the free exercise of speech, press, religion, or rights of the people to assemble peacefully or file grievances against the tribal government.

(2) Not allow unreasonable search and seizure or issue search warrants without probable cause.

(3) Not try anyone in the Northway Tribal Court for the same offense twice.

(4) Not make any person testify against himself in a criminal matter.

(5) Not take private property for public use without paying the owner the fair market value.

(6) Not deny a person the right to a speedy public trial. A speedy trial is generally assumed to be a trial within 90 days or less. The accused person must be informed of the nature of the crime he is accused of, told about the witnesses against him, be allowed to have witnesses testify in his favor and be allowed a lawyer at his own expense.

(7) Not impose excessive bail or fines, nor impose cruel or unusual punishments. Tribal courts cannot impose a penalty greater than $5,000 or one (1) year in jail, or both for any one offense.

(8) Give all persons equal protection under tribal laws.

(9) Not pronounce anyone guilty of a crime or civil violation without a fair trial. The tribal government shall not pass an ordinance and charge a person with a violation of that ordinance or change penalties, after an incident (Ex Post Facto).

(10) Provide anyone accused of an offense punishable by jail time the right to a trial by jury of no less than six persons.

ARTICLE 13 - SOVEREIGN IMMUNITY OF THE NORTHWAY TRIBE

Section 1. Waivers of Sovereign Immunity

Nothing in this Constitution shall be deemed, interpreted or construed to be a waiver of any immunity from suit or execution against tribal property that the Northway Tribe possesses, under tribal, state or federal law, provided however, that persons subject to the jurisdiction of the Tribe may bring claims against the Northway tribal government in the Northway Tribal Court, arising under the terms of the Indian Civil Right Act.

The Council may enact resolutions to waive any immunity from suit or execution subject to the terms of this section. A resolution waiving any immunity from suit or execution shall be passed by an affirmative vote of at least 5 Council members, and evidenced by a written document contemporaneously signed by Council members voting in favor of passage. Any resolution waiving any immunity from suit for claims by a non-governmental entity over $150,000 in value, or claim by any entity seeking execution against tribal lands, shall be approved by a majority vote of the qualified tribal voters, provided that at least 35 have voted in such an election. The Council shall not enact any waiver of immunity for claims by a governmental entity, except for the purposes of

satisfying the conditions or requirements of a grant, contract or compact, which are generally applicable.

Waivers of immunity shall not be general, but must specify the parties who may bring an action against the Tribe, duration for bringing a cause of action, the amount of funds or other property upon which execution may be had, the nature of the transaction giving rise to claims, and any other limitations deemed appropriate by the Council.

Upon adoption of this Constitution, all prior waivers of immunity to suit or execution of the Northway Tribe shall be void, unless claims arising under such waivers are brought within two years of adoption of this Constitution or such waivers comply with this section. This section shall be strictly construed and ambiguities as to the terms of any waiver shall be construed in favor of finding immunity of the Tribe.

ARTICLE 14 - AMENDMENTS OR REPEAL

This Constitution may be amended or repealed by a majority vote of the qualified voters of Northway Tribe voting in an election called for that purpose, provided that at least 35 of the qualified tribal voters vote in such election, and that notice has been posted in at least 3 public places in Northway for a minimum of 4 weeks prior to the election.

ARTICLE 15 - SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE 16 - SAVINGS

Unless inconsistent with this Constitution, all tribal legislation enacted prior to adoption of this Constitution shall remain in effect.

ADOPTION OF THIS CONSTITUTION

This Constitution shall be adopted by a majority vote in an election called for that purpose and held in Northway, provided that at least 35 of the qualified tribal voters vote in such election, and that notice has been posted in at least 3 public places in Northway for a minimum of 4 weeks prior to the election.

CERTIFICATE OF ELECTION RESULTS

The attached Traditional Constitution of the Northway Tribe was submitted to the qualified voters of the Northway Tribe on September 7, 2004, and was duly adopted by a vote of 43 Tribal Members with no Members voting against the adoption of this Constitution in an election in which at least 35 of the qualified tribal voters cast their ballots and notice was posted for a minimum of 4 weeks prior to the election in at least 3 public places in Northway.

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